

## HOUSE BILL NO. 385

INTRODUCED BY WELLS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO DRIVER'S LICENSE ELIGIBILITY; PROHIBITING THE ISSUANCE OF A LICENSE TO A PERSON WHO CANNOT PROVE THAT THE PERSON'S PRESENCE IN THE UNITED STATES IS AUTHORIZED UNDER FEDERAL LAW; PROVIDING THAT A LICENSE MAY NOT BE DENIED SOLELY BECAUSE THE PERSON OWES MONEY TO ANY PERSON OR ENTITY; FOR ISSUANCE OF A DRIVER'S LICENSE TO A FOREIGN NATIONAL WHOSE PRESENCE IN THE UNITED STATES IS TEMPORARILY AUTHORIZED UNDER FEDERAL LAW AND IMPOSING CERTAIN CONDITIONS ON RENEWAL AND EXPIRATION OF THAT LICENSE; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT RULES REGARDING ISSUANCE OF A DRIVER'S LICENSE TO A FOREIGN NATIONAL; AMENDING SECTIONS 61-5-105, ~~AND 61-5-106~~ 61-5-107, 61-5-111, AND 61-5-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE DATES AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-5-105, MCA, is amended to read:

**"61-5-105. Who may not be licensed** ~~---no refusal for debts.~~ ~~(1)~~ The department may not issue a license under this chapter to a person:

~~(1)(a)(1)~~ who is under 16 years of age unless:

~~(a)(i)(A)~~ the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or

~~(b)(ii)(B)~~ the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

~~(2)(b)(2)~~ whose license or driving privilege is currently suspended or revoked in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

~~(3)(c)(3)~~ who is addicted to the use of alcohol or narcotic drugs;

~~(4)(d)(4)~~ who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided

1 by law;

2 ~~(5)(e)(5)~~ who is required by this chapter to take an examination;

3 ~~(6)(f)(6)~~ who has not deposited proof of financial responsibility when required under the provisions of  
4 chapter 6 of this title;

5 ~~(7)(g)(7)~~ who has any condition characterized by lapse of consciousness or control, either temporary  
6 or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to  
7 an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in  
8 writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to  
9 operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified  
10 to operate a commercial motor vehicle under applicable state or federal regulations; ~~or~~

11 ~~(8)(h)(8)~~ who lacks the functional ability, due to a physical or mental disability or limitation, to safely  
12 operate a motor vehicle on the highway; or

13 ~~(i)(9)~~ who does not submit proof satisfactory to the department that the applicant's presence in the  
14 United States is authorized under federal law. The department may not accept as a primary source of  
15 identification a driver's license issued by a state if the state does not require that a driver licensed in that state  
16 be lawfully present in the United States under federal law.

17 ~~(2) The department may not refuse to issue a license under this chapter to a person based solely on~~  
18 ~~the fact that the person owes money to any person or entity."~~

19  
20 ~~Section 2.~~ Section 61-5-106, MCA, is amended to read:

21 ~~"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary~~  
22 ~~licenses. (1) The department may issue an instruction permit to a person satisfying the age requirements~~  
23 ~~specified in 61-5-105(1)(a) after the applicant has successfully passed the knowledge test and the vision~~  
24 ~~examination as provided in 61-5-110. An instruction permit entitles the permittee, while in immediate possession~~  
25 ~~of the permit and accompanied by a licensed driver seated beside the permittee, to drive a motor vehicle upon~~  
26 ~~the public highways for a period of 6 months from the date the fees required in 61-5-111 are paid.~~

27 ~~(2) The department may issue a traffic education learner license to any person who is at least 14 1/2~~  
28 ~~years of age and who has successfully completed or is successfully participating in a traffic education course~~  
29 ~~approved by the department and the superintendent of public instruction. A traffic education learner license~~  
30 ~~entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed~~

parent or guardian and may be restricted to specific times or areas.

~~(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.~~

~~(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:~~

~~(i) a motor vehicle when an approved instructor is seated beside the permittee; or~~

~~(ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.~~

~~(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.~~

~~(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.~~

~~(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit as provided in 61-5-120."~~

~~NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.~~

**SECTION 2. SECTION 61-5-107, MCA, IS AMENDED TO READ:**

**"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each application for an instruction permit, driver's license, commercial driver's license, or motorcycle endorsement must be made upon a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within

1 a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by  
2 the secretary of state must be attached to each driver's license application. If the applicant wishes to register  
3 to vote, the department shall accept the registration and forward the form to the election administrator.

4 (2) Each application must include the full legal name, date of birth, sex, residence address of the  
5 applicant [and the applicant's social security number], must include a brief description of the applicant, and must  
6 provide the following additional information:

7 (a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type  
8 of motor vehicle during the 10-year period immediately preceding the date of the application;

9 (b) a certification from the applicant that the applicant is not currently subject to a suspension,  
10 revocation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in  
11 another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

12 (c) a brief description of any physical or mental disability, limitation, or condition that impairs or may  
13 impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle  
14 on the highway; ~~and~~

15 (d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon  
16 or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of  
17 a motor vehicle on the highway, including the nature of the equipment or restrictions; and

18 (e) if the applicant is a foreign national whose presence in the United States is temporarily authorized  
19 under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship  
20 and immigration services of the department of homeland security authorizing the applicant's presence in the  
21 United States.

22 [(3) The department shall keep the applicant's social security number from this source confidential,  
23 except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise  
24 permitted by state law administered by the department and may be provided to the department of public health  
25 and human services for use in administering Title IV-D of the Social Security Act.]

26 (4) (a) When an application is received from an applicant who is not ineligible for licensure under  
27 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the  
28 applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year  
29 period. The driving record may be transmitted manually or by electronic medium.

30 (b) When received, the driving records must be appended to the driver's record created and maintained

1 in this state. The department may rely on information contained in driving records received under this section  
2 to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a  
3 conviction or other conduct requiring suspension or revocation of a driver's license under state law. (Bracketed  
4 language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

5  
6 **SECTION 3. SECTION 61-5-111, MCA, IS AMENDED TO READ:**

7 **"61-5-111. Contents of a driver's license, renewal, renewal by mail, license expirations, grace**  
8 **period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) The department may  
9 appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses receipts.  
10 The department shall adopt necessary rules governing sales. In areas in which the department provides driver  
11 licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint  
12 an agent to sell receipts.

13 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a  
14 driver's license to each qualifying applicant. The license must contain:

15 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

16 (ii) a distinguishing number issued to the licensee;

17 (iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee;

18 and

19 (iv) either the licensee's customary signature or a digital reproduction of the licensee's customary  
20 signature.

21 (b) The department may not use the licensee's social security number as the distinguishing number  
22 unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

23 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records  
24 check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's  
25 eyesight. The department may also require the applicant to submit to a knowledge and skills test if:

26 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may  
27 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle  
28 on the highway; and

29 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions  
30 appropriate to the applicant's functional abilities; or

1 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

2 (b) In the case of a commercial driver's license, the department shall, if the information was not provided  
3 in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the  
4 applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately  
5 preceding the date of the renewal application and may also require that the applicant successfully complete a  
6 written examination as required by federal regulations.

7 (c) A person is considered to have applied for renewal of a Montana driver's license if the application  
8 is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in  
9 subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's  
10 examination station.

11 (d) (i) A Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person may renew a driver's  
12 license by mail if the person certifies that the person is temporarily out of state and will not be returning to the  
13 state prior to the expiration of the license.

14 (ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision  
15 examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

16 (iii) If the department does not have a digitized photograph or signature record of the renewal applicant  
17 from the expiring license, then the department may require the renewal applicant to submit a personal  
18 photograph and signature that meets the requirements prescribed by the department.

19 (iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for  
20 consecutive license terms.

21 (v) The department may not renew a license by mail if the records check conducted in accordance with  
22 61-5-110(1) shows an ineligible license status for the applicant.

23 (vi) If a license was issued to a foreign national whose presence in the United States is temporarily  
24 authorized under federal law, the license may not be renewed by mail.

25 (e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than  
26 30 days prior to the expiration date of a driver's license. The department shall mail the notice to the Montana  
27 mailing address shown on the driver's license unless the licensee has submitted a change of address as  
28 required by 61-5-115.

29 (4) (a) Except as provided in subsections (4)(b), ~~and (4)(c), and (4)(d)~~, a license expires on the  
30 anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday,

1   whichever occurs first.

2           (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the  
3   licensee's birthday 4 years or less after the date of issue.

4           (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

5           (d) A license issued to a person who is a foreign national whose presence in the United States is  
6 temporarily authorized under federal law expires, as determined by the department, on either: NO LATER THAN  
7 (i) the expiration date of the official document issued to the person by the bureau of citizenship and  
8 immigration services of the department of homeland security authorizing the person's presence in the United  
9 States; or

10 — (ii) on the person's birthday immediately preceding the expiration date of the official document.

11           (5) Whenever the department issues an original license to a person under the age of 18 years, the  
12 license must be designated and clearly marked as a "provisional license". Any license designated and marked  
13 as provisional may be suspended by the department for a period of not more than 12 months when its records  
14 disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent  
15 driving.

16           (6) Fees for driver's licenses are:

17           (a) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

18           (b) motorcycle endorsement -- 50 cents a year or fraction of a year;

19           (c) commercial driver's license:

20           (i) interstate -- \$5 a year or fraction of a year;

21           (ii) intrastate -- \$3.50 a year or fraction of a year;

22           (d) renewal notice -- 50 cents.

23           (7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has  
24 surrendered a Montana driver's license to that jurisdiction, the department shall change the license status on  
25 the person's official driver record to "inactive". If the person returns to Montana prior to the expiration of the  
26 previously surrendered license, the department may reactivate the license for the remainder of the license term."

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28           **SECTION 4. SECTION 61-5-125, MCA, IS AMENDED TO READ:**

29           **"61-5-125. Authority of department -- rulemaking authority.** (1) The department shall administer and  
30 enforce the provisions of this chapter.

1 (2) The department shall adopt rules setting standards to govern driver's license examinations and  
2 reexaminations. The rules:

3 (a) must specifically address the functional abilities and skills required for a person to exercise ordinary  
4 and reasonable control in the safe operation of a motor vehicle on a highway;

5 (b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and  
6 restricted licensure and may include minimum field of vision and depth perception requirements and hearing  
7 requirements for unrestricted and restricted licensure;

8 (c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability  
9 to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test  
10 may consist of:

11 (i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration  
12 of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

13 (ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the  
14 department, as related to a specific physical or mental condition or conditions or a request for reexamination;

15 (d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

16 (e) may take into consideration any nationally recognized standards or recommended practices for  
17 assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor  
18 vehicle on the highway;

19 (f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational  
20 limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

21 (g) may be derived from medical guidelines and information compiled by driver licensing medical  
22 advisory or review boards from other jurisdictions, as well as information received from advocacy groups for  
23 persons with disabilities and senior citizens; and

24 (h) except as provided in 61-5-105, may not use a person's age or physical or mental disability,  
25 limitation, or condition as a justification for denial of a license.

26 (3) The department may adopt additional rules governing:

27 (a) acceptable methods of proof of identification that must be supplied by a person upon application for  
28 or renewal of a driver's license;

29 (b) issuance of a hardship license to an underage applicant;

30 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license



1 fees;

2 (d) circumstances under which the department may issue a probationary license to a person whose  
3 license has been suspended or revoked or a person whose license is subject to a discretionary suspension or  
4 revocation;

5 (e) restrictions to be imposed upon a probationary license;

6 (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid  
7 Montana driver's license at the time of entering active duty; ~~and~~

8 (g) issuance of a duplicate driver's license; and

9 (h) a determination of the driver's license expiration date, minimum and maximum license terms, and  
10 license renewal requirements for a driver's license issued to a person who is a foreign national whose presence  
11 in the United States is temporarily authorized under federal law."

12  
13 NEW SECTION. SECTION 5. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] IS  
14 EFFECTIVE JULY 1, 2005.

15 (2) [SECTIONS 2 AND 3] ARE EFFECTIVE JULY 1, 2006.

16  
17 NEW SECTION. SECTION 6. APPLICABILITY. [THIS ACT] APPLIES TO DRIVER'S LICENSES ISSUED ON OR AFTER  
18 JULY 1, 2005, AND TO DRIVER'S LICENSES RENEWED ON OR AFTER JULY 1, 2006.

19 - END -